

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking on the
Commission's Proposed Policies and Programs
Governing post-2003 Low-Income Assistance
Programs.

Rulemaking 04-01-006
(Filed January 8, 2004)

**ADMINISTRATIVE LAW JUDGE'S RULING ON SEVERAL NOTICES OF
INTENT TO REQUEST COMPENSATION**

This ruling responds to three different notices of intent (NOI) to seek compensation for participation in a Commission proceeding. Disability Rights Advocates filed on October 7, 2005, the Greenling Institute on October 27, 2005, and The Utility Reform Network (TURN) on November 7, 2005. This ruling addresses the requirements of the Pub. Util. Code, Article 5, § 1804. All statutory references are to the Public Utilities Code. In consultation with the Assigned Commissioner, I find that all three organizations are eligible to request compensation in this proceeding.

I. Requirements for Awards of Compensation

The intervenor compensation program, enacted in Pub. Util. Code §§ 1801-1812, requires that the intervenor satisfy all of the following procedures and criteria to obtain a compensation award:

1. The intervenor must be a customer or a participant representing consumers, customers, or subscribers of a utility subject to our jurisdiction. (§ 1802(b).)
2. The intervenor must satisfy certain procedural requirements including the filing of a sufficient NOI to claim compensation within 30 days of the prehearing

conference (PHC) (or in special circumstances, at other appropriate times that we specify). (§ 1804(a).)

3. The intervenor must file and serve a request for a compensation award within 60 days of our final order or decision in a hearing or proceeding. (§ 1804(c).)
4. The intervenor must demonstrate significant financial hardship. (§ 1803(b).)
5. The intervenor's presentation must have made a substantial contribution to the proceeding, through the adoption, in whole or in part, of the intervenor's contention or recommendations by a Commission order or decision. (§ 1803(a).)

For the purposes of this ruling, I am addressing items 1, 2, and 4.

II. Procedural Issues

A. Customer Status

Pub. Util. Code § 1803 provides that the Commission shall award compensation for participation in a Commission proceeding by a customer who also complies with several other statutory requirements.

Section 1802 (b)(1) states that "customer" means any of the following:

- (a) A participant representing consumers, customers, or subscribers of any electrical, gas, telephone, telegraph, or water corporation that is subject to the jurisdiction of the commission.
- (b) A representative who has been authorized by a customer.
- (c) A representative of a group or organization authorized pursuant to its articles of incorporation or bylaws to represent the interests of residential customers, or to represent small commercial customers who receive bundled electric service from an electrical corporation.

Disability Rights Advocates is an organization that has previously represented the interest of residential customers with disabilities before this Commission and it has been found to be eligible for Intervenor Compensation.

See Rulemaking (R.) 03-04-003, 3/8/05 Administrative Law Judge (ALJ) Ruling and R.04-12-001, 11/22/04 ALJ Ruling. Its articles of incorporation specifically authorize it to represent the interests of disabled customers. More specifically, these articles state that Disability Rights Advocates is a 501(c)(3) organization established to engage in public interest litigation and advocacy to protect the rights of people with disabilities. Therefore, Disability Rights Advocates is a group or organization that is authorized by its bylaws or articles of incorporation to represent the interests of residential ratepayers, and a “customer” pursuant to § 1802(b).

Both Greenlining and TURN have been found eligible for compensation on numerous past occasions. Greenlining states that its members are purchasers of energy services from utilities in California, TURN’s articles of incorporation specifically authorize its representation of the interests of residential customers. Both qualify as “customers” pursuant to § 1802(b).

B. The Timing of the Request

Under § 1804(a)(1), “[a] customer who intends to seek an award under this article shall, within 30 days after the prehearing conference is held, file and serve on all parties to the proceeding a notice of intent to claim compensation.” There was no PHC conference in the relevant portion of the proceeding. These NOIs were prompted by the Commission’s “Notice of October 6, 2005 Full Panel Hearing in Los Angeles” prompted by concerns related to the impact of expected high winter natural gas prices on low income customers. The Commission issued the notice on September 13, 2005, held the hearing on October 6, 2005, and issued its decision on October 27, 2005. In between, parties filed rounds of comments.

Prior to the notice of the hearing, parties could not have contemplated that the Commission would address these issues, or do so as quickly as it did. There was no PHC-like event to prompt filings, and very little time to submit NOIs in the midst of the other work involved in the proceeding. The parties responded enthusiastically to the challenge of participating in this abbreviated process, and, in the case of the three NOI-filing parties, participated on faith that the short-term emergency would be followed by a reasonable opportunity to seek compensation. In these circumstances, I find the filings of each of the parties to be timely.

C. Financial Hardship

An intervenor seeking compensation must show that, without undue hardship, it cannot pay the reasonable costs of effective participation in the proceeding. In the case of groups or organizations, significant financial hardship is demonstrated by showing that the economic interest of individual members is small compared to the overall costs of effective participation. (Pub. Util. Code § 1802(g).) Such a finding is normally made in the ALJ's preliminary ruling as to whether the customer will be eligible for compensation. (§ 1804(b).)

Both Greenling and TURN assert financial hardship through a rebuttal presumption, as allowed by § 1804(b)(1), by showing that a finding to meet this requirement was made in another proceeding within the last year. Greenlining cites an April 8, 2005 ALJ's ruling in Application (A.) 04-12-014. TURN cites an ALJ's ruling in A.05-02-027, dated November 4, 2005. (Ruling dated July 27, 2004 in R.04-04-003.) Both Greenlining and TURN meet the significant financial hardship condition.

Disability Rights Advocates also seeks a finding of financial hardship, offering several paths to reaching that conclusion. If I find that the organization

would experience financial hardship for one of the reasons stated, it is not necessary to consider the others. Disability Rights Advocates claims that the economic interest of individual members of the group is small when compared to the costs of effective participation. It reported its intention to focus on two issues: the importance of ensuring medical baseline eligibility, and the protections needed by people with fixed incomes during the coming winter. The organization's estimated \$38,775 budget for participation in the proceeding would clearly make the economic interest of individual members appear small in comparison.

IT IS RULED that Disability Rights Advocates, the Greenlining Institute, and The Utility Reform Network are eligible to seek compensation in this proceeding.

Dated December 28, 2005, at San Francisco, California.

/s/ STEVEN WEISSMAN

Steven Weissman
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail, and by electronic mail to the parties from whom an electronic mail address has been provided, this day served a true copy of the original attached Administrative Law Judge's Ruling On Several Notices of Intent to Request Compensation on all parties of record in this proceeding or their attorneys of record.

Dated December 28, 2005, at San Francisco, California.

/s/ JOYCE TOM

Joyce Tom

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.